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9 **BEFORE THE**
10 **BOARD OF PHARMACY**
11 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

12 In the Matter of the Statement of Issues Against:

Case No. 3214

13 **KIRIT B. SHAH**
21 Castillo
14 Irvine, CA 92620

STATEMENT OF ISSUES

15 Respondent.

16 Complainant alleges:

17 **PARTIES**

18 1. Virginia Herold (Complainant) brings this Statement of Issues solely in her
19 official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer
20 Affairs (Board).

21 2. On March 28, 2008, the Board received an application for a Pharmacist License
22 from Kirit B. Shah (Respondent). On March 27, 2008, Respondent certified under penalty of
23 perjury to the truthfulness of all statements, answers, and representations in his application. The
24 Board denied the application on June 3, 2008.

25 **LICENSE HISTORY**

26 3. On or about December 18, 1997, the Board issued Original Pharmacy Permit
27 Number PHY 43301 to KM Corporation, dba Elliott Pharmacy, Kirit Shah, President, Meera
28 Shah, Vice President. As a result of a previous disciplinary action, that Permit was revoked

1 effective December 1, 2005.

2 4. On or about May 8, 1984, the Board issued Original Pharmacist License No. RPH
3 38430 to Respondent. Accusation No. 2699 was filed by the Board on January 4, 2004, against
4 Respondents KM Corporation, dba Elliott Pharmacy, Kirit Shah, President, Meera Shah, Vice
5 President, Original Pharmacy Permit Number PHY 43301, and Kirit B. Shah, RPH, Original
6 Pharmacist License No. RPH 38430. Effective December 23, 2004, Respondent voluntarily
7 surrendered his License pursuant to a Stipulated Surrender of License and Order (Order). The
8 Order provided that Respondent's surrender of his License "shall constitute the imposition of
9 discipline against Respondent," and that if he ever applied for licensure in California, "all of the
10 charges and allegations contained in Accusation No. 2699 shall be deemed to be true, correct,
11 and admitted by Respondent when the Board determines whether to grant or deny the application
12" True and correct copies of Accusation No. 2699 and the Order are attached hereto as
13 Exhibit A.

14 JURISDICTION

15 5. This Statement of Issues is brought before the Board under the authority of the
16 following laws. All section references are to the Business and Professions Code unless
17 otherwise indicated.

18 6. Section 480 of the Code states in pertinent part:

19 (a) A board may deny a license regulated by this code on the grounds that
20 the applicant has one of the following:

21

22 (2) Done any act involving dishonesty, fraud or deceit with the
intent to substantially benefit himself or another, or substantially injure another.

23 (3)(A) Done any act which if done by a licentiate of the business
24 or profession in question, would be grounds for suspension or revocation of
license.

25 (B) The board may deny a license pursuant to this subdivision only
26 if the crime or act is substantially related to the qualifications, functions or duties
of the business or profession for which application is made.

27

1 7. Section 4301 of the Code states, in pertinent part:

2 The board shall take action against any holder of a license who is guilty of
3 unprofessional conduct or whose license has been procured by fraud or
4 misrepresentation or issued by mistake. Unprofessional conduct shall include, but
5 is not limited to, any of the following:

6

7 (p) Actions or conduct that would have warranted denial of a license.

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9 8. California Code of Regulations, title 16 (CCR), §1769 states, in pertinent part:

10 (a) When considering the denial of a facility or personal license under
11 Section 480 of the Business and Professions Code, the board, in evaluating the
12 rehabilitation of the applicant and his present eligibility for licensing or
13 registration, will consider the following criteria:

14 (1) The nature and severity of the act(s) or offense(s) under
15 consideration as grounds for denial.

16 (2) Evidence of any act(s) committed subsequent to the act(s) or
17 crime(s) under consideration as grounds for denial under Section 480 of the
18 Business and Professions Code.

19 (3) The time that has elapsed since commission of the act(s) or
20 crime(s) referred to in subdivision (1) or (2).

21 (4) Whether the applicant has complied with any terms of parole,
22 probation, restitution or any other sanctions lawfully imposed against the
23 applicant.

24 (5) Evidence, if any, of rehabilitation submitted by the applicant.

25

26 **FIRST CAUSE FOR DENIAL OF APPLICATION**

27 **(Acts Warranting Discipline If Done By A Licensed Pharmacist)**

28 9. Respondent's application is subject to denial under sections 480(a)(3)(A) and
29 4301(p) of the Code, in that he engaged in acts which if done by a licensed pharmacist, would be
30 grounds for suspension or revocation of license, as more fully detailed in Accusation No. 2699,
31 Exhibit A hereto, which is incorporated by reference.

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SECOND CAUSE FOR DENIAL OF APPLICATION

(Dishonesty, Fraud or Deceit)

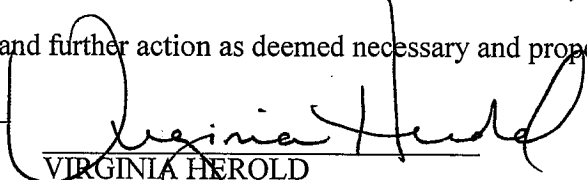
10. Respondent's application is subject to denial under section 480(a)(2) of the Code, in that he engaged in acts involving dishonesty, fraud or deceit with the intent to substantially benefit himself or another, or substantially injure another, as more fully detailed in Accusation No. 2699, Exhibit A hereto, which is incorporated by reference.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Pharmacy issue a decision:

1. Denying the application of Kirit B. Shah for a Pharmacist License;
2. Taking such other and further action as deemed necessary and proper.

DATED: 3/24/09



VIRGINIA HEROLD
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant